

Chinalaw
Provided By Chinalaw Computer-Assisted Legal Research Center,
Peking University.

REGULATIONS ON LAND-USE MANAGEMENT FOR
FOREIGN INVESTMENT ENTERPRISES IN JIANGSU PROVINCE

(Adopted at the 24th Session of the Standing Committee of the 6th
Jiangsu Provincial People's Congress on February 21, 1987 and
promulgated by the Standing Committee of Jiangsu Provincial People's
Congress on March 7, 1987)

CHINALAW No. 423

ISSUING-DEPT: JIANGSU PROVINCE

ISSUE-DATE:
03/07/1987

IMPLEMENT-DATE:
03/07/1987

TEXT:

[Article 1] The present Regulations are formulated in accordance with the relevant laws and regulations of the State in a bid to enhance the management of land (site) use by the Sino-foreign equity or non-equity joint venture enterprises and wholly foreign-owned enterprises (hereinafter referred to as the foreign investment enterprise) and to encourage foreign investment in the province.

[Article 2] All foreign investment enterprises shall abide by the present Regulations when using any part of the land of the province(including land, marshland and water areas).

[Article 3] The location and limits of the site chosen by a foreign investment enterprise shall be subject to confirmation by the planning departments of the county or higher-level people's government in the locality in accordance with the overall land use plan of the locality and the urban or township construction plan.

The foreign investment enterprise concerned then shall submit an application, along with the approval documents of the construction project and the enterprise's legal status certificate, to the land administrative department of the county or higher-level people's government (hereinafter referred to as the land administrative department) in the locality. When the application is approved, the applicant enterprise shall sign a land use contract, after which it will receive the land use certificate and the right over the use of the site.

The land use right legally acquired by the foreign investment enterprise concerned shall be protected by the laws of the State.

[Article 4] The foreign investment enterprise shall have only the right to use the approved site but not its ownership. The land use right, once acquired, shall not be transferred to other enterprises or entities.

[Article 5] After having acquired the land use right, the foreign investment enterprise shall exercise the right in time. The land-using enterprise shall report to the land administrative department and explain why the land is not used in accordance with the land use contract if the delay is more than one year. The land administrative department shall have the right to revoke the land use certificate and withdraw the land use right if the land is not used in accordance with the land use contract for more than two years; fees paid shall not be refunded.

[Article 6] A foreign investment enterprise shall protect the water and mineral resources and other land resources found within the confines of the site the land use right over which it has acquired from any possible pollution or destruction. The enterprise shall go through the application formalities in accordance with the relevant laws and regulations of the State and obtain the approval of the authorities concerned if it wants to use these resources. All cultural and historical relics on land or underground are the property of the People's Republic of China. Any relic discovered shall be properly protected and reported to the local departments in charge of cultural and historical relics.

[Article 7] The foreign investment enterprise shall apply in advance to the planning department of the county or higherlevel people's government for any changes to be made to the approved use of the land the right over which the enterprise has acquired. Once approved by the planning department, the foreign investment enterprise should comply with required formalities with the land administrative department to have the alteration made and the rate of the land use fee reevaluated.

[Article 8] The duration of the land use by the foreign investment enterprise shall be that in which the enterprise has been approved to remain in operation. The land administrative department shall withdraw this land use right upon the expiration of the enterprise's land use contract. Application to extend the land use duration should be made by the land-using enterprise three months in advance. The enterprise should complete the extension formalities after approval has been given by the authorities concerned.

[Article 9] Unless otherwise stipulated by the State, the foreign investment enterprise shall pay a land development fee and a land use fee for the site in use. The fee standards shall be determined by the municipal people's government in the locality in accordance with the relevant laws and regulations of the State and on the basis of the nature of the respective industries, how advanced the technology employed is, and the location of the site.

Export-oriented and technologically advanced enterprises shall be exempted from the land use fee for a period of five years, starting from the time the land use fee for a period of five years, starting from the time the land use right is acquired. Payment of the fee in the following five years shall be at half the floor (lowest) rates prescribed by the local municipal people's government. The same floor-rate 50% reduction also applies to other foreign investment enterprises but it is for the first five years starting from the time the land use right is acquired.

Enterprises in any one of the following categories shall have their land use fee reduced or exempted in a specified period upon the approval by the municipal people's government in the locality:

- (1) Engaging in the agricultural, forestry, animal husbandry and fishery development projects;
- (2) Launching equity or non-equity joint venture projects in cooperation with Chinese township enterprises;
- (3) Engaging in the transportation, energy and infrastructure construction projects, and
- (4) Engaging in projects on developing and utilizing marshland areas, seaside land reclamation or wasteland transformation and development.

[Article 10] The land use fee shall be exempted for all projects launched for such public welfare as education, culture, science and technology, health and other non-profit undertakings. The land development fee may also be reduced or exempted upon approval by the authorities concerned.

[Article 11] Where the provincial jurisdiction applies, land-using foreign investment enterprises are henceforth exempted from payment of those fees collected under the categories of ancillary projects and capacity expansion projects of the water and power supply systems.

[Article 12] The foreign investment enterprise shall pay the land use fee annually to the financial department of the county or higher-level people's government from the date it acquires the land use right and calculation of the fee is on a half-year basis. A lump-sum payment for the entire duration of the land use contract is also allowed, provided the duration covered by the lump-sum payment does not exceed 20 years. No additional charge or refund shall be made in case of any adjustment on the land use fee in the duration already covered.

The foreign investment enterprise may develop the approved land on its own or entrust the development of the project to the land administrative department in the locality.

The land development fee collected by the land administrative department shall be used as compensation for the acquisition of the land, dismantling of the original buildings, resettlement of the people concerned, and construction of the supporting facilities linking the plant of the foreign investment enterprise to the public utilities systems.

[Article 13] The foreign investment enterprise shall apply to the land administrative department for the temporary occupation of additional land for storage of materials and parts during the construction of the project. The enterprise concerned shall obtain the required land use certificate and pay the land use fee after the application has been approved.

No productive, business or other profit-oriented activities shall be allowed on the land approved for temporary use. The term for temporary use shall not exceed two years. Upon expiration of the temporary land use right, the land-using enterprise shall be responsible for its clean-up and restoration work. The land administrative department shall cancel the temporary land use certificate and withdraw the temporary land use right.

[Article 14] Payment of land development fee and land use fee:

When the land using enterprise is a foreign investment enterprise, it shall be the one to pay the land-use fee on time.

Where the land is provided as investment by the Chinese party to a Sino-foreign equity or non-equity joint venture enterprise, the Chinese party shall be obliged to pay the fees on time. Otherwise, the joint venture enterprise itself shall be the one to pay the fees.

[Article 15] Where the Chinese party to a Sino-foreign equity or non-equity joint venture enterprise is the owner of the land use right of the site, it may use the land development fee and land use fee as investment in the joint venture. The fees shall be calculated at the same standard rates as those for land of the same category.

[Article 16] The land administrative departments at all levels shall complete the examination and approval formalities within one month of the receipt of the documents submitted by the foreign investment enterprise.

[Article 17] Disputes arising from the implementation of the present Regulations should try to have them resolved through consultation and mediation between the parties involved, failing which the case shall be submitted to a people's court for a decision.

[Article 18] The present Regulations shall also apply to all enterprises in the province invested by companies, enterprises, other economic entities or individuals from Hongkong, Macao and Taiwan.

[Article 19] The present Regulations shall go into effect as of the date of promulgation.